

AMENDMENT UNDER 37 C.F.R. § 1.116

Application No.: 10/630,796

Atty Docket No.: Q71412

REMARKS

The Office Action of December 1, 2004 has been received and it's contents carefully considered.

Claims 1, 2 and 4-14 are all the claims pending in the application.

Applicants note that claims 1, 2 and 4 to 12 have been allowed.

Claims 13 and 14 have been rejected under 35 U.S.C. § 103(a) as obvious over Tomiyasu in view of Do et al.

Applicants undersigned attorney called the Examiner on January 18, 2005 to discuss this rejection. The Interview Summary attached to the Office Communication of January 21, 2005 summarizes the substance of the interview.

With respect to claim 14, the Examiner states in the Office Action that the recitation in claim 14 requiring that the amorphous initial growth portion of the intermediate film is less than or equal to 1 encompasses an intermediate film having no initial amorphous growth portion. Thus, the Examiner was interpreting claim 14 as meaning that the initial amorphous growth portion can have a thickness that is equal to 0 nm. The Examiner asserted in the Office Action that claim 14 reads on Tomiyasu et al because Tomiyasu et al do not teach an initial growth portion.

Claim 14 corresponds to claim 9 written in independent form. In the previous Office Action, the Examiner stated that claim 9 was allowable. Accordingly, applicants submit that the present Office Action should not have been made final.

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The Examiner stated during the Interview that she agreed that she should not have made the present Office Action a final rejection.

During the telephone Interview, applicants undersigned counsel did not necessarily agree with the Examiner's interpretation that claim 14 could be interpreted to mean that there was no initial amorphous growth portion, but nevertheless suggested to the Examiner that claim 14 be amended to more positively recite the presence of an initial growth portion and argued that such an amendment distinguishes over Tomiyasu et al.

The Examiner indicated that she agreed that if claim 14 was amended to require an initial growth portion, it would be allowable over the cited prior art.

Accordingly, applicants have now amended claim 14 as set forth above to more positively recite that "the intermediate film has an amorphous initial growth portion". This amendment further clarifies the difference between Tomiyasu et al and the present claim 14.

With respect to claim 13, the Examiner pointed out during the Interview that claim 13 does not require that the intermediate film be in contact with the orientation control film and, therefore, does not exclude the presence of the underlayer film 4 of Tomiyasu et al that is between the intermediate layer 5 and seed layer 3 of Tomiyasu et al. The Examiner indicated that if claim 13 was amended to specifically state that the intermediate film was in direct contact with the orientation control film, that claim 13 would then be allowable over Tomiyasu et al and Do et al.

In response, applicants have amended claim 13 to state that the intermediate film is in direct contact with the orientation control film.

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Support for this amendment can be found, for example, in Figures 1 and 5 of the present application which show that the intermediate film 4 and the orientation control film 3 are in direct contact with each other. See also page 17 of the specification which discloses that the intermediate film 4 is provided directly above orientation control film 3, and Example 1 which discloses forming an intermediate film on an orientation control film.

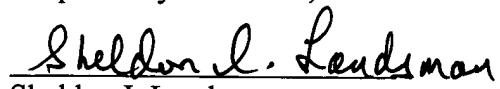
Applicants submit that Tomiyasu et al do not disclose or suggest that an intermediate film is in direct contact with an orientational control film as set forth in claim 13.

In view of the above, applicants submit that claims 13 and 14 are patentable over Tomiyasu et al and, accordingly, request withdrawal of this rejection.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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